IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10581 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AMBABEN MANILAL PATEL

Versus

UNION OF INDIA

Appearance:

MR KALPESH M PANDIT for Petitioner

MS.P.J.DAVAWALA for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 17/10/2000

ORAL JUDGEMENT

Rule. Mr.P.J..Davawala, Learned Additional Standing Counsel for the Central Government waives service of rule for the respondents.

2. In this petition under Article 226 of the Constitution, the petitioner has prayed for a writ of mandamus directing the respondents to rectify the error in the passport in respect of petitioner's date of birth as per birth register instead of school leaving

certificate.

3. The petitioner was issued passport wherein her date of birth was mentioned as per School Leaving Certificate and as the petitioner is desirous of immigrating to US the petitioner started processing the necessary formalities and on 14.9.2000 the petitioner applied for certificate of birth which was issued to the petitioner wherein it was revealed the date of birth of the petitioner to be 30.7.1951 and not 29.7.1951. Thus, there is variation of one day between the school leaving certificate (at annexure "A" to the petition) and the certificate of birth issued by the Valsad Nagarpalika (at annexure "C" to the petition) .Hence, the petitioner had requested the respondents for change of date of her birth in passport from 29.7.1951 to 30.7.1951. The said request of the petitioner was turned down. Hence, the petitioner has filed the present petition.

4. In view of the settled position that if there is any discrepancy between the birth date recorded in the birth certificate issued by the Municipality/Local authority and the birth date recorded in the School Leaving Certificate, the birth date recorded in the birth certificate should normally prevail, the Regional Passport Officer should not have had any hesitation in accepting the petitioner's request for showing the birth date in the passport on the basis of birth certificate issued by the Valsad Nagarpalika (at annexure "C" to the petition).

5. In view of the above discussion, the petition is allowed. The Regional Passport Officer is directed to consider the petitioner's request for change of date of her birth in the passport in accordance with law on the basis of the material which may be placed before the Regional Passport Officer more particularly the birth certificate issued by the Valsad Nagarpalika (at Annexure "C" to the petition) and shall pass appropriate orders within a period of one month from the date of receipt of writ of this Court or a certified copy of this judgment, whichever is earlier.

In case the petitioner is required to apply for a fresh passport, the petitioner shall comply with the requisite formalities for the same.

6. The petition is accordingly allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent.

7. Since the respondents are not responsible for the mistake in question, the petitioner shall pay costs of this petition which are quantified at Rs.1,500/- to the second respondent within two weeks from today. Direct Service is permitted.

17.10.2000 (M.S.SHAH,J)